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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,415	07/16/2007	Pedro Queiroz Viera	NEU055	1929
7590 McNair Law Firm P.O.Box 10827 Greenville, SC 29603-0827			EXAMINER PAIK, SANG YEOP	
			ART UNIT 3742	PAPER NUMBER
			MAIL DATE 06/22/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/594,415

Applicant(s)

VIERA, PEDRO QUEIROZ

Examiner

SANG Y. PAIK

Art Unit

3742

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 5-12, 14-22 and 24-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Yip et al (US 6,859,615).

Yip shows the structure claimed including a housing, a receptacle arrangement having two chambers with each chamber having a wick with the chambers received in a single base, a heater arrangement for individually heating each wick which is protruding from the chamber and through a heating block having a heater wherein the individual heating blocks are isolated from each other with an air gap there between, at least one blower partially enclosed in the housing, a control unit such as CPU, including a timer and manual switches, for controlling each of the heaters independently and periodically, the blower that is switched on at defined times wherein the blower generates an air stream that is directed away from the heater such that it does not impinge directly upon the heater but is directed in the wick end evaporation/heating area with a ventilation slot area for releasing the evaporated substance, and the evaporated substance is conveyed to a mixing area/chamber above the ventilation slot area toward a tapered nozzle wall and through an air outlet of the housing. Yip further shows a connection plug with a cable to power the heater and the blower. (Also see drawing Figures 16-21)

With respect to claims 24, 26, it is noted the recited insecticide contained in a second receiving relates as a material that is worked by the apparatus which does not limit the apparatus claim.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yip et al (US 6,859,615) in view of Sugimura (US 3,410,488).

Yip shows the device claimed except for a plurality of fans.

Sugimura shows that it is known to provide each fragrance containing unit with its respective fan (see Figure 2).

In view of Sugimura, it would have been obvious to one of ordinary skill in the art to adapt Yip with each chamber having its own blower to independently and separately provide the air stream as desired by the user.

With respect to claim 13, Yip does not explicitly show that its heater is an electrical resistance heating element, but it would have been obvious to one of ordinary skill in the art to provide the heater in Yip as an electrical resistance heating element since such heating element is well known in an electrical heater for the electrical vapor or fragrance dispensers.

5. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yip et al (US 6,859,615) in view of Arabori et al (US 4,870,254) or Ueda (US 4,375,586).

Yip shows the device claimed except for a heating element for heating the air stream generated by the blower.

Abrabori or Ueda shows that it is known to provide a heater for heating an air drawn in by a fan.

In view of Arabori or Ueda, it would have been obvious to one of ordinary skill in the art to adapt Yip with a heater fan for heating the air stream generated by the blower to facilitate and maintain the vaporized fragrant in the heated state to further enhance its dispersion from the outlet of the housing.

Response to Arguments

6. Applicant's arguments filed 3/18/10 have been fully considered but they are not persuasive.

The applicant argues Yip does not show the air that does not impinge directly upon the heater assemblies and that it rather shows the air that will naturally follow the curved formation of the dispenser cover and circulate within the dispenser and around the heater assemblies. This argument is not deemed persuasive since, as the applicant also points out, the air would have to travel around the curve of the nozzle passage, which is a tapered interior wall of the nozzle passage, to possibly cool the heater assembly, but it is noted that the air does not impinge "directly" upon the heater but at most indirectly impinges the heater assembly. Given the applicant's argument, it is also noted that the disclosed invention showing the openings 44 could possibly allow the

forced air into and around the heater which would teach the applicant's invention contrary to that of the claimed recitation. Thus, the applicant's arguments are not deemed persuasive.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SANG Y. PAIK whose telephone number is (571) 272-4783. The examiner can normally be reached on M-F (9:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on (571) 272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SANG Y PAIK/

Primary Examiner, Art Unit 3742